

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

PAUL S. GALINDRO  
LAURA GALINDRO,

Plaintiffs,

v.

CV 20-0505 JCH/JHR

DIGEN RECOVERY SYSTEMS, LLC, and  
GENE ALLEN,

Defendants.

**ORDER ADOPTING PROPOSED FINDINGS AND  
RECOMMENDED DISPOSITION IN PART**

THIS MATTER comes before the Court on Magistrate Judge Jerry H. Ritter's Proposed Findings and Recommended Disposition ("PFRD") [Doc. 21], filed December 14, 2020. Judge Ritter recommended denying Gene Allen's Motion Requesting Clerk to Reconsider Default Judgment, [Doc. 13], because Allen cannot appear on behalf of DiGen Recovery System, LLC ("DiGen"), and Allen himself lacks standing to move to vacate an entry of default against DiGen. [Doc. 21, p. 3]. The PFRD notified the parties of their ability to file objections and that failure to do so waives appellate review. To-date, no objections have been filed.

Although no party timely objected to the PFRD, the Court has reviewed the PFRD *de novo* and will adopt it with these clarifying remarks. Even though Allen titled his Motion "Motion Requesting Clerk to Reconsider Default Judgment," the record is clear that no default judgment has been entered. Allen's motion functions instead as a request to reconsider the Clerk's entry of default [Doc. 12], an action which is preliminary to and distinct from default judgment. [See also Doc. 7]. Judge Ritter recommended "that the Court DENY Gene Allen's Motion Requesting Clerk to Reconsider Default Judgment[,] [Doc. 21, p. 3], which corresponds to the inaccurate title Allen

gave to his motion, but the real effect of this order is to deny reconsideration of the Clerk's entry of default.

**IT IS THEREFORE ORDERED:**

1. The Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 21] is **ADOPTED**; and
2. Defendant Allen's mistitled Motion Requesting Clerk to Reconsider Default Judgment [Doc. 13], functionally requesting reconsideration of the Clerk's entry of default, is **DENIED**.

  
\_\_\_\_\_  
SENIOR UNITED STATES DISTRICT JUDGE